

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

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|--------------------------------|---|--------------------------|
| ROBERT HALL, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 4:12CV00738 AGF |
| |) | |
| AVIS BUDGET CAR RENTAL, LLC, |) | |
| AVIS RENT A CAR SYSTEM, LLC, |) | |
| RICHARD HARDWICKE, JEFF BRUNO, |) | |
| AND DAN PASTORUS, |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

This matter is before the Court on (1) Defendants' motion to reconsider the Court's June 14, 2012 Memorandum and Order, insofar as it awarded Plaintiff fees and costs incurred as a result of the improvident removal of this case; and (2) Plaintiff's motion for fees and costs incurred as a result of the removal of this case. For the reasons set out below, Defendants' motion to reconsider will be denied and Plaintiff's motion for fees and costs will be granted in the amount of \$1,500.

BACKGROUND

Plaintiff initiated this employment discrimination action on March 13, 2012, in the Circuit Court of St. Louis County, Missouri against his former employer and three individual former supervisors. Plaintiff and the three individual Defendants are citizens of Missouri; the former employer is a citizen of Delaware.

On April 25, 2010, before two of the individual Defendants had been served, the two Defendants who had already been served (the former employer and one of the former supervisors) removed the action to this Court based upon diversity jurisdiction, asserting that the served individual Defendant had been fraudulently joined, such that he did not defeat the complete diversity requirement. The removing Defendants then moved to dismiss the action for lack of jurisdiction, on the ground that Plaintiff failed to exhaust administrative remedies in a timely fashion. Plaintiff moved for remand, and in response to the motion to dismiss, argued that the administrative exhaustion issue should be determined by the state court upon remand.

This Court agreed with Plaintiff's position, determining that removal was improper because the citizenship of the Defendants who had not yet been served was ignored; the joinder of the served individual Defendant was not fraudulent; and that in any event, the question of whether the joinder was fraudulent should be determined by the state court. The Court further determined that the removing Defendants lacked an objectively reasonable basis for seeking removal, and accordingly, the Court awarded Plaintiff costs and expenses, including attorney's fees, associated with the removal.

Plaintiff has submitted his motion for fees and costs in the amount of \$26,050, representing 104.2 hours of work at the hourly rate of \$250 per hour.

In support of their motion for reconsideration, Defendants argue that awarding fees and costs to Plaintiff is unjust, reasserting their argument that Plaintiff added the served individual Missouri Defendant only in order to defeat diversity jurisdiction, thereby

“thwarting . . . Defendants’ only opportunity to avoid Plaintiff’s hometown advantage.”

In response to Plaintiff’s request for \$26,050, Defendants argue that the amount is “plainly unreasonable,” and improperly includes work performed by counsel in connection with the motion to dismiss and work performed on clerical tasks. Defendants further assert that Plaintiff’s counsel did not exercise proper billing judgment in, for example, spending approximately 20 hours preparing his fee application.

Upon review of the record, the Court will deny Defendants’ motion for reconsideration. The Court remains convinced that there was no objectively reasonable basis for seeking removal. The Court, however, agrees with Defendants that the amount of fees requested is excessive, and that under all the circumstances of the case, an award of \$1,500 would be just.

CONCLUSION

Accordingly,

IT IS HEREBY ORDERED that Defendants’ motion to reconsider the Court’s June 14, 2012 Memorandum and Order is **DENIED**. (Doc. No. 23.)

IT IS FURTHER ORDERED that Plaintiff’s motion for fees and costs is **GRANTED** in the amount of \$1,500. (Doc. No. 25.)

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 25th day of July, 2012.